IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPILICATION NO.3675 OF 2006

Nitin Ramdas Raut ... Applicant
versus
State of Maharashtra ... Respondent

Dega Sawant i/by C.G.Gavnekar for applicant.
Mr.P.A.Pol, APP for respondent.

CORAM : S.C.DHARMADHIKARI, J.

DATE : 19th October 2006

PC :

1. The applicant is arrested in connection with CR No.101 of 2006 registered with Wagle Estate Police Station, Thane alleging offences of forgery and cheating. The applicant is in custody since 1st April 2006.

2. The submission of the applicant's counsel is that the applicant is not associated with any of the public bodies nor with the public charitable trust. It is submitted that the amounts of the public bodies were deposited with the complainant bank at its Wagle Estate Branch and were diverted to the account of a public charitable trust, is the allegation, but as far as applicant is

concerned, beyond stating that he introduced the concerned officials of the public bodies to the officers of the bank and visited the office of the public bodies representing himself to be an employee of the bank, there is no other role that the applicant has played in the entire incident. It is contended that neither the cheques have been drawn nor deposited with the bank by the applicant. The applicant is also not associated with the trust for the alleged diversion. In such circumstances and when all investigations are complete and charge sheet is filed, the applicant deserves to be enlarged on bail.

3. My attention is invited to the orders passed by this Court on the applications of the co-accused enlarging them on bail. My attention is also invited to the order of the Sessions Judge granting bail to the office bearers of the trust.

4. The learned APP has invited my attention to the affidavit filed in reply and more particularly paras 9 to 12 thereof. He submits that it is false to contend that the applicant is not responsible in the acts committed by one Ashok H. Parekh and Desai. On the other hand,

the applicant used Identity Card of the SBI and that is how he gained entry in the office of public bodies and collected cheques. The cheques were handed over to the applicant and thereafter he handed them to the main culprit Ashok Parekh. Thereafter, the cheques came to be deposited in the accounts of public charitable trust. It is in such circumstances and when the applicant has been identified by the employees of the public bodies, that he does not deserve to be enlarged on bail.

5. In my view, the applicant-original accused no.9 is not required to be detained in custody any further when the investigations are complete and charge sheet is filed. More so, when the co-accused including the employees of public bodies and office bearers of the trust have been enlarged on bail, it would not be fair to deny the applicant relief on the ground of parity as well. That apart, the role of the applicant as pointed out on affidavit is only of procuring deposits for the bank but thereafter in the alleged act of forgery and cheating, it is the other accused including Parekh who has played major role. It is also not pointed out to me that the applicant has any antecedents so that he

would not be available at the trial.

6. In such circumstances and when the hearing of the case has been expedited, the applicant deserves to be enlarged on bail. Hence, following order.

7. ORDER :-

(i) The applicant shall be enlarged on bail in connection with C.R.No.T-101/2006 registered with Wagle Estate Police Station, Thane subject to furnishing a personal bond of Rs.25,000/- (Rs.Twenty Five thousand only) with one or two local sureties in the like sum;

(ii) The applicant shall report to Wagle Estate Police Station, Thane once in a week till conclusion of the trial;

(iii) The applicant shall deposit his pass port, if any, forthwith with Wagle Estate Police Station, Thane;

(iv) The applicant shall furnish particulars of address where he proposes to reside after release on bail & during pendency of trial. The applicant shall not change his residence without prior intimation to the Investigating Machinery;

(v) The bail is granted subject to condition that the applicant shall not, directly or indirectly, make any inducement or threat to any prosecution witnesses and shall not in any manner tamper with prosecution evidence.

(vi) The applicant shall co-operate with the Trial Court for expeditious disposal of the trial. Any attempt by the applicant to delay the trial may be a ground for cancellation of bail.

(vii) Any observation/s made in this order shall not be constructed as any finding or any expression of opinion on the merits of the case at the time of trial.

(viii) Application is disposed of in above terms.

(S.C.DHARMADHIKARI, J.)